

REMARKS

Applicant has elected Group II and provisionally elected, with traverse, Species e, 4, and I. Further, Applicant has provided a list of all claims readable thereon.

Applicant traverses the election of species requirement as unnecessary given that a significant number of claims are generic with respect to the three categories of species set forth in the Office Action. Specifically, Applicant respectfully submits that claims 62-68, 71, 81, 83, 89, 91, 92, 94, 96, and 100-102 are generic. Furthermore, both the search and examination of all claims can be made without serious burden. For example, all claims recite the step of expanding a surgical implant. Thus, regardless of whether all claims are examined together or separately, a review of the prior art for this claim recitation is required so that search and examination of all claims does not present a serious burden. Accordingly, an examination of all claims on the merits is required, even if the application includes claims to distinct or independent inventions. *See* MPEP § 803.

If the election of species requirement is not withdrawn, Applicant requests a modification of the requirement. With respect to Category 3, Applicant respectfully submits that there are no claims directed to Species II (tendon replacement). Although the Examiner asserts that claim 84 is directed to tendon replacement, claim 84 recites “substituting the tendon around which the bone tissue has been compressed for a ligament . . .” As claim 84 recites using a tendon/bone tissue implant as a substitute for a ligament, claim 84 is actually directed to Species III (ligament replacement).

With respect to Category 1, Applicant notes that an acetabular cup (Species g) is a specific embodiment of a joint replacement component (Species j). As stated in the specification, “[t]hese expandable materials can be used . . . for any shape required for stabilization surgery, such as a . . . a joint replacement part such as a femoral component of acetabular cup . . .” Specification, p. 32, lns. 17-25. Thus, Applicant respectfully requests that Species g be eliminated.

In light of the foregoing, Applicant respectfully requests reconsideration and withdrawal or, at least modification of the requirement.

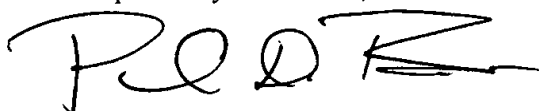
Finally and in accordance with the Examiner’s request, a listing of related co-pending

applications follows. Copies of the co-pending claims are enclosed. Please note that as the undersigned firm has taken over responsibility for these cases, the Attorney Docket designations have changed.

Application No.	Pending Claims	Attorney Docket
✓ 09/443,906	71-150	780-A02-006-6
✓ 09/798,870	63-88, 109-117	780-A02-006
✓ 09/871,936	62-82	780-A02-006-1
✓ 10/033,515	1, 62-74	780-A02-006-10
✓ 10/104,250	1, 62-76	780-A02-006-12
✓ 10/279,402	1-33	780-A02-006-13
✓ 10/279,451	1-30	780-A02-006-14

In light of the foregoing remarks, this application is now in condition for an examination on the merits, and early action is respectfully requested. If any questions remain regarding this response or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned. Please charge any required fee (or credit any overpayments of fees) to the Deposit Account of the undersigned, Account No. 500601 (Docket no. 780-A02-006-11).

Respectfully submitted,



Paul D. Bianco, Reg. # 43,500

Enclosures

Customer Number: 33771

Paul D. Bianco

FLEIT KAIN GIBBONS GUTMAN & BONGINI

601 Brickell Key Drive, Suite 404

Miami, Florida 33131

Tel: 305-931-9620; Fax: 305-931-9627

e-mail: pbianco@focusonip.com